

MDR Tracking Number: M5-04-0986-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 12-04-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The work hardening and conditioning and work hardening and conditioning each additional hour were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision are hereby issued this 24th day of February 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 12-17-02 through 01-31-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 24th day of February 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/dlh

February 20, 2004

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

REVISED REPORT
Injured employee's middle initial added.

Re: MDR #: M5-04-0986-01
IRO Certificate No.: IRO 5055

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine.

REVIEWER'S REPORT

Information Provided for Review:

Correspondence
H&P and office notes
Physical therapy notes
Physical Performance Test

Clinical History:

This claimant suffered a back injury in a work-related incident on _____. MRI scan revealed disc herniation at the L5-S1 level, and the claimant went on to have decompressive laminectomy and discectomy in February, 2001. The claimant returned to the workplace in July 2001 and reported persistent pain problems thereafter. Nerve conduction studies indicated subacute bilateral L5 radiculopathy and possible left S1 radiculopathy. Provocative discography reported a normal appearing disc at L4-L5 but with severe concordant low back pain and grossly degenerative architecture at L5-S1 with 10/10 concordant back pain. On August 22, 2002, an anterior total discectomy and inner body fusion, inner body fixation with cages at L4-L5/L5-S1 and pedicle fixation from L4-S1 on the right side was performed. On 12/11/02, evaluation by his treating physician indicated that the claimant reported improvement in pain issues postoperatively and demonstrated significant improvement in range of motion maneuvers. At that time, it was suggested that he participate in a work-hardening program to better enable him to return to the workplace.

Disputed Services:

Work hardening/conditioning and work hardening/conditioning, each additional hour, during the period of 12/17/02 thru 01/31/03.

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the work hardening/conditioning in dispute as stated was medically necessary in this case.

Rationale:

The claimant is 35 years old and in peak years concerning productivity and earning power. He did demonstrate the capacity to rebound from his first surgery and return to work before suffering from further lumbar pathology and related pain issues. The claimant's age and apparent degree of improvement, as noted in the treating physician's note, along with claimant's history of recovery from previous back surgery with a return to work, suggests that rehabilitation through a work-hardening program will facilitate return to work in the future.

Sincerely,